IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

TUESDAY, THE SEVENTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT APPEAL NO : 768 of 2004

(Writ Appeal under Clause 15 of the Letters Patent against the Order dated 05/04/2004 in WP NO : 1236 OF 2001 on the file of the High Court.)

Between:

1 Buggineni Narayana Varaprasad S/o Ramayya
D.No.56-3-14, Patamata Vijayawada
2 Rudrapaka Sujatha Kumari W/o Babu Rao
D.No.56-10-51, Patamata Vijayawada
3 Kundarti Kumudwathi W/o K.Punneswara Sarma
D.No.56-3-14, Patamata Vijayawada Krishna Dist
4 Pittala Durga Bhavani W/o Ramachandra
D.No.59-A,-21/3-3/2 Vijayanagar Colony, Vijayawada,
Krishna Dist

..... APPELLANT(S)

AND

1 Chairman and Managing Director
AP. Transco Vidyuth Soudha
Somajiguda, Hyd
2 Executive officer
Kanuru Gram Panchayat Kanuru Village
Poranki Mandal, Krishna dist
3 Vice-Chairman V.G.T.U.D.A
VGTUDA., Governorpeta,
Vijayawada
4 The District Collector
Krishna District At Machilipatnam
5 Prl. Secretary Municipal Administration & Urban Development Authority, The State of AP Secretariat, Hyd

.....RESPONDENT(S)

Counsel for the Appellant:MR.RAVI SHANKAR JANDHYALA

Counsel for the Respondent No.4 and 5: Gp For Panchayat Raj & Rural Dev.

Counsel for respondent No.1: Smt Vinobha Devi, SC for A.P. Transco

Counsel for respondent No.2: Mr P.Bhaskara Rao

Counsel for respondent No.3: Mr P.M. Gopal Rao.

The Court made the following **JUDGMENT:**

(per Hon'ble Sri Devinder Gupta, the Chief Justice)

We have heard the counsel for the appellant and were taken through the record.

2. Appeal is against the order of dismissal of Writ Petition No. 1236 of 2001 by a common order dated 5.4.2004 passed in Writ Petition No. 26249 of 2000 and batch. Learned single Judge noticed the facts that Sri Venkateswara Engineering Contractors Cooperative Building Society purchased an extent of Ac. 25.89 cents of land in Kanur Gram Panchayat, Penamaluru Mandal of Krishna District. Application for lay out was filed. It was approved by the Vijayawada-Guntur-Tenali Urban Development Authority constituted under the A.P. Urban Areas (Development) Act, 1975. Four bits of open spaces were left. Appellants/writ petitioners sought Mandamus to declare the action of the respondents in utilizing the open spaces for constructing 33 KV Electric Sub Station as arbitrary, illegal and violative of Articles 14 and 19 of the Constitution. Primary allegation for claiming relief was that permitting 33 KV Electric Sub Station to be constructed amounts to violating the lay out plan. Open spaces could not have been permitted to be utilized without the lay out plan being amended. Any act of deviation from the lay out plan has to be held as null and void.

3. Learned single Judge noticed that even prior to approval of the lay out, 33 KV electricity line was passing through and over the land. After grant of approval of lay out, some houses came up. 33 KV electric line carries high tension power. No

connection for domestic consumption can be extended therefrom without stepping down from 33 KV to 11 KV. In view of frequent interruptions in power supply from existing feeder lines, there was a move to construct sub station in Kanur Gram Panchayat. In view of approval of the lay out for the said land, open spaces left in the lay out vest with the Gram Panchayat for public and community purposes and the Gram Panchayat vide its resolution delivered possession of four open spaces whereafter sub station was constructed, which is for the benefit of the public and is a community purpose.

4. Appellants are purchasers of sites in the lay out. They alone have come forward and questioned the act of utilizing the open spaces. Writ petition was dismissed taking note of the stand taken by the respondents that at present, Kanur, Tadigadapa and Rasanki villages have power supply through existing 11 K.V. feeders from Autonagar substation. Kanur village and Sri Venkateswara Engineering Contractors Cooperative Building Society's plots are at the tail end to the said feeder lines. In order to reduce frequent interruption in the power supply and in order to supply better voltages to the said village and the society, construction of sub station in Kanur Gram Panchayat had become necessary. Substation constructed at the present site of Sri Venkateswara Engineering Contractors Cooperative Building Society would serve two purposes, viz., (1): the 33 K.V. electricity line cutting across the number of plots of the society, could be removed; (2) substation would help to step down the power from 33 K.V. to 11 K.V. Thus, the villages and residents of the society can avail power supply for domestic purposes. Therefore, it is stated, with a view to serve public at large, with assured supply of power, free from fluctuations and break downs, the Gram panchayat passed resolution, permitting the respondent-TRANSCO, for construction of 33/11 K.V. substation in public interest and for public purpose, it is also their case that the substantial portion of construction was already completed, when petition was taken up.

5. After the writ petition was dismissed by the learned single Judge, appeal was filed. On mention being made, without a copy of the impugned order, appeal was taken up on 15.7.2004 when learned counsel for the respondents brought to the notice of the Court that the Superintending Engineer, Operation, Vijayawada through letter dated 13.4.2004 had informed that the construction of 33/11 K.V. substation, Kanur Gram Panchayat has been completed and charged on 11.4.2004.

6. Condition No. 17 of the lay out says that no open space provided in the

sanctioned lay out shall be utilized for any purpose without prior approval of the Development Authority; authorized use of the same being parks, play grounds, community facilities, schools, etc. It is not disputed by the appellants that they have no direct interest on the open spaces. They are only purchasers and are interested to see that the conditions of lay out are duly complied with. When high tension wires were already passing through and over the land in question prior to its purchase and prior to the lay out being sanctioned and lay out being for residential colony, it cannot by any stretch of imagination be held that setting up of electric sub station for stepping down of high tension to low tension from 33 K.V. to 11 K.V., from which electricity has to be supplied to the residents and that it would not be a community facility. Conditions of lay out nowhere state that community facility has to be only for the benefit of the cooperative society exclusively; it can be for the benefit of the member of the society as well as to others. It is also not disputed that setting up of sub station will help in providing uninterrupted power supply to the members of the society.

7. We do not find any illegality in the decision of the respondents in commissioning electric sub station in the area in question and for that reason we hold that there is no force in the appeal arising out of an order of dismissal of the writ petition. Writ appeal is accordingly dismissed.

August, 2004.

Sarfraz

Deputy Registrar

// true copy //

Section Officer

To

1 Chairman and Managing Director
AP. Transco Vidyuth Soudha
Somajiguda, Hyd
2 Executive officer
Kanuru Gram Panchayat Kanuru Village
Poranki Mandal, Krishna dist
3 Vice-Chairman V.G.T.U.D.A
VGTUDA., Governorpeta,
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4 The District Collector
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5 Prl. Secretary Municipal Administration & Urban Development Authority, The State of AP Secretariat, Hyd

6. Govt Pleader for Municipal Admn & Urban Development, High Court of A.P., Hyderabad (OUT)

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